IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.MC.No. 2093 of 2007()

AGAINST THE ORDER DATED 31/05/2007 IN CRMP.1080/2007 IN CRA.269/2007 of ADDL.SESSIONS COURT,-I, MAVELIKKARA
CC.568/2005 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM
(MC.91/2006)

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PETITIONER: APPELLANTS/COUNTER PETITIONERS

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1. SATHAR, AGED 26 YEARS, S/O. SALAM,
MULLASSERIL VEEDU, CHERAVALLI,
KAYAMKULAM VILLAGE.

2. BIJU, AGED 32 YEARS, S/O. SHEREEF,
BIJU MANZIL, DESATHINAKAM, KRISHNAPURAM VILLAGE,
KAYAMKULAM.

BY ADV. SRI.VINCENT JOSEPH

RESPONDENTS: Cr.PETITIONER/PETITIONER

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2093 of 2007

Dated this the 29th day of June, 2007

O R D E R

The grievance of the petitioners is short. They have suffered an order under Section 446 Cr.P.C. They preferred an appeal under Section 449 Cr.P.C. That appeal was admitted. They filed an application for suspension of execution of the order. The learned Sessions Judge did not suspend the order. They were granted a month's time to remit the penalty. If there be failure to remit the penalty, the order can be executed, it was observed by the learned Additional Sessions Judge in Annexure-A1 order. The petitioners assail that order.

2. The learned counsel for the petitioners submits that if the learned Judge's directions were followed, the order appealed against will be executed during the pendency of the appeal. That would be unjust and improper, submits the learned counsel for the petitioners.

3. Having considered all the relevant inputs, I am satisfied that appropriate directions can be issued in favour of the petitioners to ensure expeditious disposal of the appeal and non execution of the impugned order pending disposal of the appeal.

4. This Crl.M.C is, in these circumstances, allowed in part. The petitioners shall, within a period of 15 days from this date,

deposit an amount of Rs.1,000/- (Rupees One thousand only) each before the learned Magistrate, whereupon the impugned order under Section 446 Cr.P.C shall not be executed till 31.07.2007.

5. The learned Additional Sessions Judge, Mavelikkara shall dispose of Crl.Appeal No.269 of 2007 as expeditiously as possible - at any rate, prior to 31.07.2007. Compliance shall be reported to this Court.

6. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-